UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

FILED
April 25, 2006

No. 05-4761
CR-04-385

UNITED STATES OF AMERICA

        Plaintiff - Appellee

  v.

ALI AL-TIMIMI

        Defendant - Appellant

O R D E R

     Appellant has filed a motion to vacate his appeal and remand his case for further proceedings before the trial court. Previously, this Court granted a motion to stay the briefing schedule pending resolution of outstanding issues.

     The motion to vacate and to remand raises appellant's concern, based on recent developments, that the government may have undisclosed intercepts of either the appellant or various individuals material to his trial. While this is the main purpose of the requested order, appellant has also raised questions relating to alleged violations of attorney-client communications and access to evidence claimed as classified by the government.

     Appellee, the United States, has consented to the motion while emphasizing that its consent to the motion does not reflect its views

on the merits of Al-Timimi's contentions, or its views on the jurisdiction of the district court in the Eastern District of Virginia over Al-Timimi's allegations regarding conditions of his incarceration.

Having considered the motion and positions of the parties, IT IS HEREBY ORDERED

(1) Appellant's motion to vacate and to remand his case pending further proceedings is GRANTED.

(2) IT IS FURTHER ORDERED, without ruling on the government's jurisdictional question regarding the prison conditions, that the district court may consider upon remand issues raised by appellant and order whatever relief or changes in the case, if any, that it considers appropriate.

(3) IT IS FURTHER ORDERED that, following a final order by the district court, appellant may timely file without prejudice a new notice of appeal with this Court.

This order is entered at the direction of Judge Widener, with the concurrences of Judge Michael and Judge Hamilton, and with the agreement of the parties.

For the Court,

/s/ Patricia S. Connor
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CLERK